NOTES TO THE TABOR REPORT

NOTE 1. BASIS OF ACCOUNTING

Pursuant to Article 77 of Title 24, Colorado Revised Statutes, this report is prepared in accordance with generally accepted accounting principles (GAAP) except where an irreconcilable difference exists between GAAP, and state statute or the provisions of Section 20, Article X of the state constitution (TABOR).

The accounting principles used by the state are more fully described in the state's Comprehensive Annual Financial Report available from the State Controller's Office.

NOTE 2. DEFINITION OF THE DISTRICT

TABOR defines the district as "the state or any local government, excluding enterprises." It further defines enterprise as "a government-owned business authorized to issue its own revenue bonds and receiving under 10% of annual revenue in grants from all Colorado state and local governments combined."

The General Assembly, for the purpose of implementing TABOR, stated in CRS 24-77-102(16)(a) that "state" means the central civil government of the State of Colorado, which consists of the following:

(I) the legislative, executive, and judicial branches of government established by Article III of the state constitution;

(II) all organs of the branches of government specified in subparagraph (I) of paragraph (a) of this subsection (16), including the departments of the executive branch; the legislative houses and agencies; and the appellate and trial courts and court personnel; and

(III) state institutions of higher education.

(b) "state" does not include:

(I) any enterprise;

(II) any special purpose authority.

The General Assembly has designated the State Lottery, the Guaranteed Student Loan Program, the Division of Correctional Industries, the State Fair Authority, and the State Nursing Homes as enterprises excluded from the district. It further set up a mechanism in statute by which the governing boards of the institutions of higher education could designate certain auxiliary operations as enterprises, also exempt from TABOR. Although the General Assembly has designated certain enterprises as exempt from TABOR, they must also meet certain criteria annually.

NOTE 3. DEBT

Certificates of Participation, which are used by the State for long-term lease purchases, are not considered debt of the State for purposes of this report as provided by CRS 24-30-202(5.5).

In interrogatories submitted by the General Assembly regarding House Bill 99-1325, the Colorado Supreme Court ruled that Revenue Anticipation Notes (RANS) issued by the Colorado Department of Transportation do not constitute debt of the state as defined in Section 3, Article XI of the constitution. However, the Court ruled that they are a multiple-fiscal year obligation as defined by Section 20, Article X of the constitution, thus, requiring an election before they could be issued. In November 1999 the voters approved the issuance of $1.7 billion of RANS.

NOTE 4. EMERGENCY RESERVES

TABOR requires the reservation, for declared emergencies, of 3 percent or more of the Fiscal Year Spending, excluding debt service payments.

The state has designated $226,911,300 of the fund balance of the Controlled Maintenance Trust Fund as reserved for emergencies for FY 1999-00. That amount satisfies the TABOR 3 percent requirement.

NOTE 5. STATUS OF REFUNDING

At June 30, 2000, the state had accrued or made a refund of $13,002,810 over its liability for the Fiscal Year 1998-99 excess revenues, and $6,647,678 over its liability for the Fiscal Year 1997-98 excess revenues. Per statute these over-refundings are treated as sales tax refunds in the year in which the over-refunding occurs.

A class action suit has been brought against the state seeking damages of $703 million – equal to the sales tax refund for Fiscal Years 1996-97 and 1997-98. The suit alleges that the refund program violates interstate commerce, equal protection and privileges, and immunity clauses of the U.S. Constitution. It also alleges that the TABOR amendment, under which the refund was made, violates the equal protection and due process clauses of the Colorado Constitution.

NOTE 6. DAMAGE AWARDS

The large change in the amount of damage awards received between the current and prior year was the result of receipt of $115.3 million of the Tobacco Litigation Settlement. It is expected that the state will receive payments each year from the settlement agreement.

NOTE 7. OTHER SOURCES AND ADDITIONS

This line item consists primarily of $535.8 million of revenue anticipation notes, $448.3 million ($335.1 million in Fiscal Year 1998-99) of investment and pension trust fund additions by participants, and $386.9 million ($316.8 million in Fiscal Year 1998-99) of fund additions in the higher education funds.

Fiscal Year 1999-00 is the first year of use of the revenue anticipation notes for highway construction. The higher education fund additions are transfers from other higher education funds to the loan funds, endowment funds, and higher education plant funds, or the recording of fixed assets. They do not represent transactions with entities or individuals outside the District.

Other sources include reversions of accruals of accounts payable of $4.6 million, as well as $29.0 million of reimbursements of prior year expenditures, and $10.4 million in other required governmental accounting entries.

NOTE 8. VOTER APPROVED REVENUE CHANGES

The voters in the 1998 general election approved an initiated law, CRS 25-8-501.1, Regulation of Commercial Hog Facilities, adopting the permit fee. The state collected $225,432 and $14,093 from this revenue in Fiscal Years 1999-00 and 1998-99, respectively.

NOTE 9. DISTRICT RESERVES

District reserves are the cumulative fund balances of the state, excluding the fund balances of the exempt enterprises and the General Fixed Assets Account Group. The majority of these fund balances are not available for appropriation due to legal and contractual restrictions.

Prior period district fund balance adjustments consist of $24.6 million for the addition of Northwestern Community College District to the state's community college system. In addition, an $8.0 million increase was made to the district fund balance for a loan disbursement by the Department of Natural Resources that was recorded as an expenditure in a prior year instead of a loan receivable. Also, $552,131 of fixed assets transferred from the Fixed Asset Account Group (which is not in the district) to the Division of Telecommunications was added to the district fund balance.

District reserves/fund balance is also adjusted for the qualification or disqualification of enterprises. During Fiscal Year 1999-00, the University of Colorado moved assets from the district to a qualified enterprise.

The increase in District Reserve/Fund Balance of $1,087.0 million resulted partly from an increase of $619.1 million in earnings of the Special Revenue Fund in Fiscal Year 1999-00 over Fiscal Year 1998-99. This increase in the Special Revenue Fund was primarily due to the receipt of $535.8 million in revenue anticipation notes, and $66.4 million of the Tobacco Litigation Settlement funds. Also, increases over the prior year in the higher education funds were $118.5 million, the General Fund was $280.8 million, and all other remaining funds were $68.6 million (including another $48.8 million of the Tobacco Litigation Settlement).

NOTE 10. SOURCES OF TABOR GROWTH LIMITS

The allowable increases in state fiscal year spending equal the sum of inflation and the percentage change in state population in the prior calendar year, adjusted for voter approved revenue changes. Inflation is defined in CRS 24-77-102(8) as "the percentage change in the consumer price index for the Denver-Boulder Consolidated Metropolitan Statistical Area For All Urban Consumers, All Goods, as published by the U.S. Department of Labor."

The percentage change for calendar year 1998 used in this report was provided by the Office of State Planning and Budgeting.

NOTE 11. ENTERPRISE QUALIFICATION /DISQUALIFICATION

TABOR specifies that qualification and disqualification of enterprises shall change the district bases. The non-exempt revenues of $229,104 for Fiscal Year 1999-00 of the qualified enterprise at Colorado State University decreases the Fiscal Year Spending Limit by an equal amount so that the disqualification has no impact upon the current year refund.

NOTE 12. OTHER ADJUSTMENTS

Errors in previous years affect the spending limit if the error dates back to a year in which the state did not have excess TABOR revenues. Two such errors were recognized, one for the Department of Treasury and another for the Department of Human Services. These errors decreased the base in Fiscal Year 1995-96 by $449,473, the last year the state was not over the limit. That decrease, when multiplied by the allowable growth limits of the intervening years, results in the current decrease of $555,702 in the Fiscal Year 1999-00 limit.

NOTE 13. FUTURE REFUNDS

In the 1999 regular session, the General Assembly enacted mechanisms to refund Fiscal Year 1998-99 and subsequent years' excess revenue. In the 2000 regular session the General Assembly enacted additional mechanisms to refund the Fiscal Year 1999-00 and subsequent years' excess revenue. The laws enacted to refund the current TABOR liability are:

- Expanding the earned income tax credit to 10 percent which is expected to refund $36.6 million
- The personal property tax credit is expected to refund $103.5 million.
- Dividend, interest, and capital gains exemption is expected to refund $39.3 million.
- Capital gains modification was expanded to refund $71.4 million.

- A tax credit for operating in a health care shortage area is expected to refund $0.3 million.
- Increased child care credits is expected to refund $22.1 million.
- Provisions for pollution control is expected to refund $2.8 million.
- Income tax credits for the cost of health benefits to refund $22.1 million.
- A sales tax refund is expected to distribute the remaining $643.0 million of excess TABOR revenues.

The sales tax refund is a fixed amount for each of six tiers of federal adjusted gross income. The Department of Revenue calculates the amount of the individual refund for each tier as a statutory percentage of the total sales tax refund divided by the number of anticipated taxpayers in each tier. The refund for individual taxpayers is (the amounts are doubled for married taxpayers):

Federal Adjusted Income	Refund
$ 0 - $ 26,000	$182
$ 26,001 - $ 53,000	245
$ 53,001 - $ 78,000	288
$ 78,001 - $103,000	325
$103,001 - $126,000	363
$126,000+	574

The General Assembly also enacted additional refund mechanisms for Fiscal Year 2001-02 and subsequent years.